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Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of	)	
	)	
Implementation of the Cable Television Consumer Protection and Competition Act of 1992	)	MM Docket No. 92-260
	)	
Cable Home Wiring	)	

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FEDERAL COMMUNICATIONS COMMISSION
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COMMENTS OF BELL ATLANTIC[1]

1. Introduction and Summary

Cable company ownership of the wiring inside consumer homes, coupled with cable company policies of denying competitive access to the wiring, is a significant impediment to competition in the installation and maintenance of cable home wiring and in the delivery of broadband services.

The Commission can remove this impediment to competition by applying the same rules to cable that already apply to telephone company inside wiring. As in the case of telephone wiring, these rules should apply regardless of whether a consumer has terminated service.

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[1] The Bell Atlantic telephone companies ("Bell Atlantic") are The Bell Telephone Company of Pennsylvania, the four Chesapeake and Potomac telephone companies, The Diamond State Telephone Company and New Jersey Bell Telephone Company.

2. Cable Operators Have A Bottleneck Over Broadband Access Into The Home

Cable operators today control the only broadband access into the homes of most consumers. Unlike telephone companies,[2] however, cable operators are not required to allow consumers to provide or maintain their home cable wiring, and cable operators typically refuse to allow broadband competitors access to the in-home wiring.

The result is that consumers are being denied the benefits of competition for the installation and maintenance of cable wiring.[3]

In addition, the cable wiring bottleneck acts as a barrier to entry by competing services such as video dial tone. Unable to grant access to the wiring in their own homes, consumers must incur the cost and disruption of installing additional wiring to receive competing services. Typically, a

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[2] See Detariffing the Installation and Maintenance of Inside Wiring, CC Dkt 79-105, Second Report and Order at 2 (released Feb. 24, 1986) ("Feb. 1986 Order"); Detariffing, etc., CC Dkt 79-105, Mem. Op. and Order at 3, 20-21 (released Nov. 21, 1986) ("Nov. 1986 Order"); Sections 68.104 and 68.213 Concerning Connection of Simple Inside Wiring to the Telephone Network, CC Dkt No. 88-57, Report and Order at 21-26 (released June 6, 1990) ("1990 Order").

[3] See 138 Cong. Rec. S-627 (Jan. 30, 1992) (remarks of Sen. Mikulski) ("Installation and repairs can be a nightmare."); 138 Cong. Rec. H6500 (July 23, 1992) (remarks of Rep. Dingell) ("Installation appointments are missed--and when the installer decides to show up, they frequently do a shoddy job.").

consumer must pay $50 or more[4] for a simple installation of redundant cable wiring.[5] A $50 or more per customer entry barrier is a significant deterrent to broadband competition[6] and is inconsistent with the Commission's goal of promoting "future competition in the cable area."[7]

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4 A random sampling of independent installers in the Washington, D.C. area produced an average cost of $93 to wire a single ground floor room for cable.

5 From the perspective of a video dial tone provider considering new entry in competition with an incumbent cable operator, a town with 50,000 potential customers represents unnecessary additional costs of upwards of $2.5 million. From the consumer's perspective, an additional $50 installation fee is only part of the added cost since the new wiring must be snaked through the consumer's living room, basement, bedrooms -- wherever the consumer wants to receive the new service.

6 By comparison, the NCTA complained that broadcast/cable input selector switches costing $5 to $10 per consumer were "prohibitively expensive." Amendment of Part 76 of the Commission's Rules Concerning Carriage of TV Broadcast Signals by Cable TV Systems, 2 FCC Rcd 3593, 3594 (1987). The Commission, accordingly, permitted consumers to obtain "switches and associated hardware ... from sources other than their cable system. We believe this will provide a proper competitive balance in the marketing of input selector equipment to limit the price of switches." 2 FCC Rcd 3593, 3605-06. See also Amendment of Part 15 of the Commission's Rules Concerning Input Selector Switches Used in Conjunction with Cable TV Service, 2 FCC Rcd 7231, 7233 nn.12, 13 (1987) (not requiring television receivers to incorporate $5-$10 input selector switches).

7 Implementation of the Cable TV Consumer Protection and Competition Act of 1992, Cable Home Wiring, MM Dkt No. 92-260, NPRM at 2, n.6 (released Nov. 6, 1992).

3. **The Commission Should Apply To Cable Inside Wiring The Same Rules That Apply To Telephone Inside Wiring**

The legislative history of the 1992 Cable Act shows that Congress intended for the Commission to open up the cable wiring bottleneck.[8]

The Commission can do so by applying the same rules to cable that apply to telephone inside wiring.[9] Congress suggested that the Commission should have parity of regulation for the two types of wiring.[10] Moreover, as cable companies begin providing telephone services over their wires, it will become increasingly difficult to tell whether the cable wires are carrying TV shows or telephone calls.[11]

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[8] See, e.g., S. Rep. No. 102-92, 102d Cong., 1st Sess., at 23 (June 28, 1991); H.R. Rep. No. 102-628, 102d Cong., 2d Sess., at 118 (June 29, 1992).

[9] The Commission found that the telephone inside wiring rules serve "to increase competition, to promote new entry into the market, to produce cost savings which would benefit [consumers], and to create an unregulated competitive market environment for the development of telecommunications." Feb. 1986 Order at 2.

[10] The Senate Report specifically praised the Commission's rules for telephone inside wire because they "permit[] consumers to remove, replace, rearrange, or maintain telephone wiring inside the home." S. Rep. at 23. The Senate Report said the telephone wire rules reflect "a good policy and should be applied to cable." Id.

[11] See, e.g., First Pacific Networks advertising brochure, reprinted in Huber, Kellogg & Thorne, The Geodesic Network II at 2.64 (1992) (showing telephones and TV sets connected to the cable operator's wiring).

In particular, cable operators should be required to provide consumers and alternative service providers with unrestricted access to cable inside wiring.[12] Also, alternative providers should be permitted to connect to cable wiring at the minimum point of entry into the home, and consumers should control the wiring on their side of this demarcation point.[13] The Commission should also bar cable operators from requiring consumers to purchase existing cable inside wiring or to pay for use of the wiring.[14]

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[12] This is what the Commission requires respecting telephone inside wiring. 1990 Order at 21-26; Nov. 1986 Order at 20-21.

[13] Id. As with telephone inside wire and CPE, concerns about signal leakage on the consumer's side of the demarcation point should be addressed by prescribing technical standards (akin to the Part 68 rules) that must be met by manufacturers and installers of cable wiring.

[14] See Nov. 1986 Order at 21. Like telephone companies, cable operators should be required to amortize any part of the cost of existing wiring that they can show is undepreciated and unrecovered. Feb. 1986 Order at 2-3. This portion of the cost should not be large; consumers generally pay an installation charge to cover the cost of wiring their homes, and have already paid for the wiring in most instances. On an ongoing basis, cable operators should be required to expense the cost of wiring they install. Id.

As in the case of telephone wiring, the Commission's rules should apply regardless of whether consumers have terminated service.[15] If cable operators deny access to the wiring while consumers are still receiving service, consumers must pay for installation of redundant wiring before they can also receive other services.[16] Consumers should not have to terminate existing cable service to get the benefits of competition.

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[15] The 1992 Cable Act specifically mentions the disposition of cable wiring after the cable subscriber terminates service but does not require the Commission to limit its rules to these circumstances. See Cable Television Consumer Protection and Competition Act of 1992, § 16. The Commission has recognized that "ownership issues arise and are of consequence in other contexts" than when service is terminated. FCC News, "FCC Opens First Round of Proceedings to Implement 1992 Cable Act; Cable Home Wiring Addressed" (Nov. 5, 1992).

[16] A cable operator, for example, could prevent consumers with basic cable service from receiving a video on demand service that competes with the cable operator's optional premium channels.

CONCLUSION

The Commission should break cable's bottleneck control over broadband access to the home and apply to cable the same rules that already apply to telephone inside wiring.

Respectfully submitted,

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